

**Enrolled Minutes of the Fifty-second Regular Meeting
For the Twenty-Sixth Highland Town Council
Monday, February 22, 2010**

Study Session. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, February 22, 2010 at 6:30 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Dan Vassar, Brian Novak and Konnie Kuiper were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

General Substance of Matters Discussed.

1. The Town Council discussed the imminent agenda of the regular meeting.
2. The Town Council discussed paid compensatory time for exempt salaried workers.
3. The Town Council and the Public Works Director discussed the possible next round of Federal Jobs Funding and the method of allocating the funds, as suggested by the Northwestern Indiana Regional Planning Commission, the area MPO.

The study session ended at 6:59 O'clock p.m.

Regular Meeting. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, February 22, 2010 at 7:00 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Council President Mark A. Herak, presided and the Town Clerk-Treasurer was present to memorialize the proceedings.

The session was opened with the Highland Girl Scouts from Troops 171 and 285 presenting the colors and then joined by Councilor Bernie Novak, leading the pledge of allegiance to the United States Flag. Councilor Novak then and pronounced a prayer.

Roll Call: Present on roll call were Council Members Bernie Zemen, Mark Herak, Dan Vassar, Brian Novak, and Konnie Kuiper. The Town Clerk-Treasurer Michael Griffin was present. A quorum was attained.

Additional Officials Present: Jared Tauber, Attorney with Tauber, Westland and Bennett; John M. Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; Kenneth J. Mika, Building Commissioner; William R. Timmer, CFOD, Fire Chief; Cecile Petro, Redevelopment Director and Alex M. Brown, CPRP, Parks and Recreation Superintendent were present.

Ed Dabrowski of the Park and Recreation Board; and Pat Vassar, Assistant Metropolitan Police Chief and Patrol Division Commander were also present.

Minutes of the Previous Session

The minutes of the regular meeting of 09 February 2010 were approved by general consent.

Appointments:

- **Statutory Boards and Commissions**

Executive Appointments made by Town Council President
Legislative or Fiscal Body Appointments made by Town Council

Legislative Appointments (statutory)

1. **Municipal Plan Commission (legislative) (3) appointments to be made by Town Council.** *Actually, the existing persons continue to serve unless you act otherwise. If the Town Council wishes to change one or any, then it may do so. Appointees must be either an elected or appointed official of the Town or an employee.*

Councilor Vassar moved to appoint Konnie Kuiper, 3126 Lakeside Drive, Highland, to the Municipal Plan Commission, replacing and removing Brian Novak. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. Councilor Kuiper was duly appointed.

Councilor Kuiper joins Dan Grimmer and Dan Vassar as the legislative appointments to the Municipal Plan Commission. Councilor Novak requested the move based upon conflicting work commitments.

Unfinished Business and General Orders:

1. **Works Board Order No. 2010-06:** An Order Adopting and Approving An Agreement Between the State of Indiana through its Department of Transportation and the Town of Highland, Through its Town Council/Works Board for Project Coordination, for the Intersection and Other Improvement of Cline Avenue from Ridge Road to 45th Avenue, supported by American Recovery and Reinvestment Act (ARRA) Funding. *(The Town Council adopted a similar agreement at its meeting of 29 December 2009 by Works Board Order No. 2009-50. This agreement is necessary to support access to American Recovery and Reinvestment Act (ARRA) Funding, which the previous agreement did not support.)*

Councilor Novak moved the passage and adoption of Works Board Order No. 2010-06. Councilor Vassar seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

**Town of Highland
Board of Works
Order of the Works Board No. 2010-06**

AN ORDER ADOPTING AND APPROVING AN AGREEMENT BETWEEN THE STATE OF INDIANA THROUGH ITS DEPARTMENT OF TRANSPORTATION AND THE TOWN OF HIGHLAND, THROUGH ITS TOWN COUNCIL/WORKS BOARD FOR PROJECT COORDINATION, FOR THE INTERSECTION AND OTHER IMPROVEMENT OF CLINE AVENUE FROM RIDGE ROAD TO 45TH AVENUE, SUPPORTED BY AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDING.

WHEREAS, The Town Council of the Town of Highland serves as the Works Board of the Town, pursuant to IC 36-1-2-24(3); and

WHEREAS, The Town of Highland is a unit, which may establish, vacate, maintain and operate public ways, all pursuant to I.C. 36-9-2-5

WHEREAS, The Town of Highland, through its Town Council, which is the Works Board of the Municipality has heretofore determined that a need exists to approve a project involving intersection Improvement and added turn lanes to Cline Avenue from Ridge Road to 45th Avenue, evidenced by the adoption of **Works Board Order No. 2009-50**, in which it adopted a Local Participating Agreement with the Indiana Department of Transportation on 29 December 2009, which was necessary to access the Federal Highway Funding resources related to this project;

WHEREAS, The Public Works Director, pursuant to his powers and duties as set forth in Section §33.43 of the Highland Municipal Code, manages and has charge of the Street Department, has been instructed by the Indiana Department of Transportation that another Local Participating Agreement with the Indiana Department of Transportation should be adopted in order to access the Federal Highway Funding resources related to this project, particularly **American Reinvestment and Recovery Act (ARRA) Funding**; and

WHEREAS, The Town Council has reviewed the agreement as recommended by the Public Works Director and now wishes to confirm authorization of the project and adopt the agreement;

NOW, THEREFORE, BE Ordered, by the Town Council of Highland, Indiana, acting as the Works Board:

Section 1. That the intersection Improvement and added turn lanes Project of Cline Avenue from Ridge Road to 45th Avenue, as authorized and approved on 29 December 2009 by the adoption of Works Board Order No. 2009-50, is hereby again, authorized, approved, and re-affirmed;

Section 2 That the agreement entitled *Indiana Department of Transportation Local Public Agency Project Coordination Contract AMERICAN RECOVERY and REINVESTMENT ACT of 2009 FUNDING*, EDS # A249-10-320720 Des. No. 0400711, a copy of which is incorporated as an exhibit to this order, is hereby authorized and approved;

Section 3. That the Town Council President is hereby authorized and instructed evidence approval of the agreement by affixing his signature as attested thereto by the Clerk-Treasurer, and affix his signature to such other documents as are necessary to support the execution of the agreement;

Be it So Ordered.

DULY, PASSED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 22nd day of February 2010 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Works Board Order No. 2010-07:** An Order Adopting and Approving A License Agreement Between the Open Portal Solutions, Inc. (Licensor) and the Town of Highland (Licensee), for On-Line Application and Collection Services for Accident Reports, fees of which are authorized under IC 9-29-11-1(a) and Section § 51.64 (a) of the Municipal Code.

Councilor Vassar moved the passage and adoption of Works Board Order No. 2010-07. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The order was adopted.

**The Town of Highland
Board of Works
Order of the Works Board No. 2010-07**

AN ORDER AUTHORIZING AND APPROVING A LICENSE AGREEMENT BETWEEN THE OPEN PORTAL SOLUTIONS, INC., (LICENSOR) AND THE TOWN OF HIGHLAND (LICENSEE) FOR ON-LINE APPLICATION AND COLLECTION SERVICES FOR ACCIDENT REPORTS, FEES OF WHICH ARE AUTHORIZED UNDER IC 9-29-11-1(A) AND SECTION § 51.64 (A) OF THE MUNICIPAL CODE.

Whereas, The Town of Highland, through its Town Council, which is the Works Board of the Municipality has heretofore determined that a need exists to charge an appropriate service fee for the services performed and records generated associated with accident reports, pursuant to IC 9-29-11-1(a) and Section § 51.64 (A) of the Highland Municipal Code;

Whereas, The Town has been advised by the Metropolitan Police Chief that the State of Indiana has authorized the application and distribution of accidents reports, generated by any police department in the state, through a licensed on-line portal provider, which shall charge a service fee, and without an associated license agreement, will not collect or remit any fees authorized to be charged by the municipal police department that originally generated the accident report;

Whereas, The licensed on-line portal provider, selected by the State of Indiana, that offers online application and distribution of accidents reports, generated by any police department in the state has presented a license agreement in which it will collect the appropriate service fee for the services performed and records generated associated with accident reports, as authorized by the Town of Highland, pursuant to IC 9-29-11-1(a) and then remit the charges to the Town as collected;

Whereas, The authorization and approval of a license agreement in which the Town of Highland is a licensee and the licensed on-line portal provider, selected by the State of Indiana, that offers to online application and distribution of accidents reports, generated by any police department in the state, is a licensor, is a both necessary and desirable, in the conduct of the affairs of the municipality; and

Whereas, The Town of Highland, through its Town Council acting as the Works Board now desires to accept and approve the license agreement as herein described.

Now Therefore be it Ordered by the Town Council of the Town of Highland, Lake County, Indiana;

Section 1. That the license agreement (incorporated by reference and made a part of this Order) between **Open Portal Solutions, Inc., as Licensor**, and the Town of Highland, as Licensee, to provide online application and distribution of accidents reports, generated by the Highland Metropolitan Police Department, to collect the appropriate service fee for the services performed and records generated associated with these accident reports, as authorized by the Town of Highland, pursuant to IC 9-29-11-1(a) and then remit the charges to the Town as collected, while charging its own surcharge, for the period of one year, with automatic renewal, unless the Licensee provides appropriate written notice of termination, beginning *upon its adoption and approval*, as described herein, is hereby approved, adopted and ratified in each and every respect;

Section 2. That the surcharges under the agreement for the services *for providing access through an on-line portal*, in the amount of \$4 *per report*, is found to be reasonable and fair;

Section 3. That the Town Council President be authorized to execute this agreement under the terms of this order with his signature as attested thereto by the Clerk-Treasurer.

Be it so Ordered.

DULY, PASSED, ADOPTED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 22nd day of February 2010 having passed by a vote of 5 in favor and 0 opposed.

**WORKS BOARD of the TOWN of
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

3. **Resolution No. 2010-06:** A Resolution Approving a Third Addendum to the Lease between the Highland Parks and Recreation Building Corporation and he Town of Highland, Indiana. *(It is noted that the lease schedule, requires one (1) additional payment for 2013. Presently the lease rental schedule provides for payments through 2012. Mortgage Bonds of the Building Corporation mature in early 2013)*

Councilor Zemen moved the passage and adoption of Resolution No. 2010-06. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The Resolution was adopted.

**TOWN OF HIGHLAND
RESOLUTION NO. 2010-06**

**A RESOLUTION APPROVING A THIRD ADDENDUM TO LEASE BETWEEN HIGHLAND
PARKS & RECREATION BUILDING CORP. AND TOWN OF HIGHLAND, INDIANA**

WHEREAS, The Highland Parks & Recreation Building Corp., an Indiana corporation (hereinafter called "Lessor"), and the Town of Highland, Indiana, a town located in Lake County, Indiana (hereinafter called "Lessee"), did heretofore on April 10, 1997 enter into a Lease (hereinafter referred to as the "Original Lease"), as authorized by I.C. 36-1-10, which Original Lease was duly recorded in the Office of the Recorder of Lake County, Indiana on July 2, 1997 and appears as Document No. 97042714;

WHEREAS, The Lessor and the Lessee did previously modify the annual lease rental, approving a second addendum to the Lease Agreement on March 27, 2000; and

WHEREAS, The Lessor and the Lessee, have reviewed the Lease Rental Payment Schedule and desire to modify the annual lease rental Schedule, by correcting for an omitted final payment in the year 2013;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the proposed form of Third Addendum to Lease submitted to this meeting which provides for the modification in the annual lease rental be, and the same is hereby approved. That a copy of the Third Addendum to Lease is being attached to this resolution as Exhibit "A" and incorporated herein by reference.

Section 2. That the President of the Town Council and the Clerk-Treasurer are hereby authorized and permitted to execute the Third Addendum to Lease Agreement and are further hereby authorized to execute any additional documents necessary to effectuate and implement the Third Addendum to Lease.

DULY RESOLVED and ADOPTED this 22nd Day of February 2010 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

THIRD ADDENDUM TO LEASE
between
HIGHLAND PARKS & RECREATION BUILDING CORP.
and
TOWN OF HIGHLAND, INDIANA

WHEREAS, The Highland Parks & Recreation Building Corp., an Indiana corporation (hereinafter called "Lessor"), and the Town of Highland, Indiana, a town located in Lake County, Indiana (hereinafter called "Lessee"), did heretofore on April 10, 1997 enter into a Lease (hereinafter referred to as the "Original Lease"), as authorized by I.C. 36-1-10, which Original Lease was duly recorded in the Office of the Recorder of Lake County, Indiana on July 2, 1997 and appears as Document No. 97042714;

WHEREAS, The Lessor and the Lessee did previously modify the annual lease rental, approving a second addendum to the Lease Agreement on March 27, 2000;and

WHEREAS, The Lessor and the Lessee, have reviewed the Lease Rental Payment Schedule and desire to modify the annual lease rental schedule, by correcting for an omitted final payment in the year 2013;

IT IS HEREBY CERTIFIED AND STIPULATED by all of the undersigned that the modified annual rental payment schedule be modified as shown in EXHIBIT A, attached hereto.

Date as of February 22, 2010.

HIGHLAND PARKS AND RECREATION
Building Corporation

By: _____
Michael J. Fraley, President

ATTEST:

Dennis F. Lewis, Secretary

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, personally appeared **Michael J. Fraley** and **Dennis F. Lewis**, personally known to me to be the President and the Secretary, respectively, of the **Highland Parks and Recreation Building Corporation**, and acknowledged the execution of the foregoing Third Addendum to Lease for and on behalf of Said Corporation.

WITNESS MY HAND and SEAL this ____ day of _____, 2010.

Rhett L. Tauber, Notary Public

My Commission Expires: _____
County of Residence: LAKE

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, personally appeared **Mark A. Herak** and **Michael W. Griffin**, personally known to me to be the Town Council President and the Clerk-Treasurer, respectively, of the **Town of Highland, Indiana** and acknowledged the execution of the foregoing Third Addendum to Lease for and on behalf of Said Town.

WITNESS MY HAND and SEAL this ____ day of _____, 2010.

Rhett L. Tauber, Notary Public

My Commission Expires: _____
County of Residence: LAKE

EXHIBIT A

Year & Annual Payment	Installment due	Installment due
2002	30-Jun-02	31-Dec-02
\$251,250	\$179,974.00	\$71,276.00
2003	30-Jun-03	31-Dec-03
\$255,250	\$185,899.00	\$69,351.00
2004	30-Jun-04	31-Dec-04
\$262,250	\$192,568.00	\$69,682.00
2005	30-Jun-05	31-Dec-05
\$265,250	\$203,980.00	\$61,270.00
2006	30-Jun-06	31-Dec-06
\$271,250	\$210,008.00	\$61,242.00
2007	30-Jun-07	31-Dec-07
\$272,250	\$220,780.00	\$51,470.00
2008	30-Jun-08	31-Dec-08
\$277,250	\$226,168.00	\$51,082.00
2009	30-Jun-09	31-Dec-09
\$287,250	\$236,299.00	\$50,951.00
2010	30-Jun-10	31-Dec-10
\$290,250	\$251,046.00	\$39,204.00
2011	30-Jun-11	31-Dec-11
\$298,250	\$260,280.00	\$37,970.00
2012	30-Jun-12	30-Dec-12
\$304,250	\$274,040.00	\$30,210.00
2013	30-Jun-12	30-Dec-13
\$302,280	\$302,280.00	\$0.00

4. **Proposed Ordinance No. 1451:** An Ordinance Amending the Highland Municipal Code, by amending Section § 32.27, subdivisions A and B Fixing the Standing Plenary Meetings of the Town Council, pursuant to IC 36-1-3 and IC 36-10-2 et seq.

Councilor Zemen introduced and moved the consideration of Ordinance No. 1451 at the same meeting of its introduction. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance could be considered.

Councilor Zemen moved the passage and adoption of Ordinance No. 1451 at the same meeting of its introduction. Councilor Vassar seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance was adopted.

**TOWN OF HIGHLAND, INDIANA
ORDINANCE NO. 1451**

An Ordinance Amending the Highland Municipal Code, by amending Section § 32.27, subdivisions A and B Fixing the Standing Plenary Meetings of the Town Council , pursuant to IC 36-1-3 and IC 36-10-2 et seq.

WHEREAS, The Town of Highland is a local unit of general government governed by a Town Council, which is both the fiscal and legislative body of the Town;

WHEREAS, IC 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs;

WHEREAS IC 36-1-3-6 (b)(1) prescribes that any such exercise of power shall be authorized through passage of an ordinance passed by the legislative body;

WHEREAS, The Town Council as the governing body for the municipality, may establish and operate a government, pursuant to its general corporate powers conferred in IC 36-1-4-2;

WHEREAS, The Town Council now desires to modify the some provisions of the Highland Municipal Code in order to modify the standing plenary meetings of the legislative body; and,

WHEREAS, The Town Council believes this action to be necessary and desirable for the conduct of the affairs of the Town, and in the public interest, consistent with the powers granted under IC 36-1-3 et seq. and IC 36-10-2 et sequitur;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF HIGHLAND, LAKE COUNTY, INDIANA as follows:

Section 1 That subdivisions (A) and (B) of Section § 32.27 of the Highland Municipal Code is hereby repealed in its entirety to be replaced by a successor subdivisions to be styled as subdivision (A) and (B) of Section § 32.27 (F) which shall read as follows:

§ 30.27 REGULAR MEETINGS.

(A) Except as otherwise provided herein, the Town Council shall hold regular (plenary) meetings on the first and third Monday of each month, which shall begin at 7:00 p.m.

(B) Except as otherwise provided herein, the Town Council shall hold work study meetings (study sessions) on the second and fourth Monday of each month, which shall begin at 7:00 p.m. In addition, the Town Council shall hold brief work study sessions before each regular or plenary meeting of the Town Council, beginning at 6:30 p.m. Work study meetings shall be distinguished from plenary meetings as they shall be conducted with less formality and with no votes or final actions of a dispositive nature unless provided otherwise by proper notice, pursuant to IC 5-14-1.5 et seq.

Section 2. Any and all such ordinances in conflict with the provisions of this ordinance are hereby repealed and of no further force or effect.

Section 3. This ordinance shall become and be in full force and effect *from April 1, 2010*, and after its passage and adoption upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a).

Introduced and Filed on the 22nd Day of February 2010. Consideration on same day or at same meeting of introduction had a vote of 5 in favor and 0 opposed, all pursuant to IC 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 22nd Day of February 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

5. Action of the Town Council as appointing authority to consider approval of the Annual Conflict of Interest Disclosure Statement filed by **Don Haynes**, possessing ownership in Square and Level, Inc. which provides general repairs for the Municipality from time to time. Mr. Haynes is a Highland Firefighter and employee. This filing is pursuant to IC 35-44-1-3.

Councilor Kuiper moved to approve the conflict disclosure as filed. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The conflict disclosure form was approved.

6. Instruct the proper officer to publish notice pursuant to IC 5-3-1 for a public hearing on proposed additional appropriations in excess of the 2010 Budget for the Unsafe Building Fund, and the Special Centennial Commission Fund.

Councilor Zemen moved that the proper officer publish notice as indicated. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The publication was authorized.

Comments from the Town Council Members
(For the Good of the Order)

- **Councilor Bernie Zemen:** • *Park and Recreation Board Liaison • Town Board of Metropolitan Police Commissioners • Lake County Solid Waste Management District Board of Directors • President's designee to Chair the Select Centennial Commission • Chamber of Commerce, Liaison.*

Councilor Zemen commended the Parks and Recreation Superintendent on his efforts that led to the Lincoln Community Center Capital Project surviving a recent petition and remonstrance drive.

- **Councilor Dan Vassar:** • *Redevelopment Commission Liaison • Plan Commission member.*

Councilor Vassar commended the Parks and Recreation Superintendent on his efforts that led to the Lincoln Community Center Capital Project surviving a recent petition and remonstrance drive.

Councilor Vassar commended the Fire Chief and the Fire Department on the recent retention of the ISO 4 rating for the Fire Department.

- **Councilor Brian Novak:** • *Advisory Board of Zoning Appeals, Liaison • Traffic Safety Commission Member.*

Councilor Novak commended the Parks and Recreation Superintendent on his efforts that led to the Lincoln Community Center Capital Project surviving a recent petition and remonstrance drive.

Councilor Novak commended the Fire Chief and the Fire Department on the recent retention of the ISO 4 rating for the Fire Department.

- **Councilor Konnie Kuiper:** • *Fire Department, Liaison.*

Councilor Kuiper commended the Fire Chief and the Fire Department on the recent retention of the ISO 4 rating for the Fire Department.

Councilor Kuiper commended the Public Works Director regarding the improved neatness and cleanliness the Councilor observed at the Public Works Facility.

- **Councilor Mark Herak:** • *Town Executive • Police Pension Board of Trustees Chair • Budget Committee Chair • Board of Sanitary Commissioners, Liaison • Board of Waterworks Directors, Liaison • Community Events Commission, Liaison.*

Council President Herak commended the Parks and Recreation Superintendent on his efforts that led to the Lincoln Community Center Capital Project surviving a recent petition and remonstrance drive.

Council President Herak commended the Fire Chief and the Fire Department on the recent retention of the ISO 4 rating for the Fire Department.

Comments from the Public or Visitors

There were no comments.

Payment of Accounts Payable Vouchers. Councilor Zemen moved to allow the accounts payable vouchers as filed on the pending pay docket, covering the period February 10, 2010 through to February 22, 2010. Councilor Novak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The accounts payable vouchers were allowed and the clerk-treasurer was authorized to make payment.

General Fund, \$278,564.55; Motor Vehicle Highway and Street (MVH) Fund, \$34,187.26; Forfeited and Seized Assets Fund, \$299.00; Law Enforcement Cont. Education and Supply Fund, \$1,510.43; Insurance Premium Fund, \$140,643.00; Information and Communications Technology Fund, \$7,600.01; Civil Donation Fund, \$20.75; Traffic and Law Violations Agency Fund, \$1,354.50; Safe Neighborhood Grant Fund, \$1,400.00; Corporation Capital Fund, \$17,814.48; Total: \$483,393.98.

Adjournment. Councilor Vassar moved that the meeting be adjourned. Councilor Kuiper seconded. Upon a vote *viva voce*, the motion passed. The regular plenary meeting of the Town Council of Monday, February 22, 2010 was adjourned at 7:24 O'clock p.m.

Study Session. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session immediately following the regular meeting on Monday, February 22, 2010 at 7:30 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Dan Vassar, Brian Novak and Konnie Kuiper were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Additional Officials Present: John M. Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; Kenneth J. Mika, Building Commissioner; William R. Timmer, CFOD,

Fire Chief; Cecile Petro, Redevelopment Director and Alex M. Brown, CPRP, Parks and Recreation Superintendent were present.

Pat Vassar, Assistant Metropolitan Police Chief and Patrol Division Commander was also present.

General Substance of Matters Discussed

1. The Highland Town Council, Clerk-Treasurer and the several department heads present discussed a proposed amendment to the Compensation and Benefits Ordinance regarding Compensation Time for Exempt Salaried Employees.

The discussion noted that the Office of the Clerk-Treasurer, the Parks and Recreation Department, the Public Works Department, Building and Inspection Department and the Fire/EMS Department, while allowing for exempt salaried employees to use compensation time on an hour for hour basis with no premium, did not carry over unused "exempt compensatory time" that may have been recorded and incurred from year to year. It was further noted that in Fair Labor Standards Act and in the language of the Town's Compensation and Benefits Ordinance that exempt salaried compensatory time it is not an entitlement.

The discussion further noted that the Metropolitan Police Department and the Redevelopment Department observed different policies from other departments regarding exempt salaried compensatory time. The discussion included an examination of the fact that the current language in the Wage and Salary Ordinance provides that overtime may be paid to exempt salaried workers (supervisors and department heads) but only with express approval of the Town Council. It was further noted that a particular provision in the Compensation and Benefits Ordinance requiring Town Council or proper board of jurisdiction approval before exempt salaried employees could use so-called compensatory time as paid time off, had been little observed. It was still further noted that the Town Clerk-Treasurer distributed an electronic e-mail reminding department leaders of the particular provisions and clarifying that the use so-called compensatory time as paid time off by exempt salaried employees required proper approval.

It was further noted that the Metropolitan Police Chief requested relief from the provisions requiring approval before exempt salaried employees could use so-called compensatory time as paid time off. The actual provisions in the Compensation and Benefits Ordinance discussed were as follows:

§ 4.03.01 All non-exempt, non-salaried employees will be paid time and one-half the regular rate of pay OR will receive compensatory time at one and one-half the time for all work performed in excess of forty (40) hours per week excluding Police Department personnel as hereinafter provided. For all full-time employees, holidays and vacation days will be counted as hours worked for purposes of calculating your overtime hours provided the vacation leave has been requested and approved at least 48 hours before the beginning of the work week. Other time off of work shall not count toward overtime. Overtime pay will be computed in fifteen-minute increments. Except as otherwise provided, exempt salaried employees will not receive overtime pay or compensatory time off, unless specifically authorized by the Town Council or proper board of jurisdiction.

§ 2.01 Exempt Employees

Exempt employees refer to exempt from certain provisions of the Fair Labor Standards Act pertaining to overtime. It also means that you are in a supervisory or professional position and not eligible for overtime payments for work in excess of 40 hours per week.

Exempt Salaried Positions

Director of Public Works
Water & Sewer Supervisor
Maintenance Supervisor
Building Commissioner/Chief Inspector

General Supervisor
Street Supervisor
Facilities Supervisor
Deputy Clerk-Treasurer

Superintendent of Parks & Recreation
Director of Recreation
Metropolitan Police Division Commander(s)
Metropolitan Police Ass't. Div. Commander(s)
Metropolitan Police Administration Officer(s)

Park Director
Recreation Supervisor(s)
Chief of Police
Fire Chief
Redevelopment Director

§ 2.02 Non-Exempt Employees

Non-exempt employee status means that you are eligible for overtime payments for work in excess of 40 hours per week.

Based upon the forging and after a discussion with other department heads, a proposal had been discussed to eliminate the requirement of approval by the Town Council or a proper board of jurisdiction for use of compensatory time by exempt salaried workers (supervisors).

The discussion included a suggestion that the compensatory time policies of the several departments and the Office of the Clerk-Treasurer be made consistent. It was suggested that exempt salaried compensatory time, to be used as paid time off hour for hour, could be formalized by the Town Council. Among the possible policies suggested was that unused exempt salaried compensatory time simply lapse at the end of each year, nor that any be paid to any exempt salaried worker at separation from service for whatever reason. It was noted that many of the municipal departments and the Office of the Clerk-Treasurer practiced this as policy. The discussion noted that the Metropolitan Police Department allowed up to 80 hours of compensatory time to be accrued for all workers each year. The Redevelopment Department had no cap and allowed for indefinite carry over. Other departments and offices allowed up to 40 hours.

With leave from the Town Council, Assistant Metropolitan Police Chief/Patrol Commander expressed his belief that it was "unfair" to deny payout of unused compensatory time to exempt salaried supervisors while allowing payouts to non-exempt workers.

It was suggested that the Clerk-Treasurer draft some suggested language regarding the matter and that the draft serve as the basis for a future discussion on the matter.

2. The Highland Town Council, Clerk-Treasurer and the several department heads present discussed whether or not the practice of allowing persons who are either retiring or otherwise separating from employment to remain on the group health insurance until any unused portion of paid time off was exhausted. The alternative practice discussed was paying out any unused portion of paid time off in a lump sum at separation and ending enrollment in the group health plan at the time of separation as well.

The discussion included an examination of distinguishing workers who are merely separating from employment with those who are separating with earned retirement benefits due. The workers from the Metropolitan Police Department did not favor a policy requiring pay-out of any unused portion of paid time off in a lump sum at separation, and ending enrollment in the group health plan at the time of separation as well.

3. The Town Council discussed the current provisions in the Compensation and Benefit Ordinance that allowed the buy back of up to five days of vacation from a worker, and whether or not the provisions should be amended or eliminated.
4. The Town Council and the Metropolitan Police Chief discussed the disposition and status of the disability payment and related settlement issues on the late Officer Kelley Hayes. The Metropolitan Police Chief noted that he had followed up with the Public Employees Retirement Fund (PERF) but noted that the disability payments and related settlement issued were still unpaid and unresolved.

5. The Town Council discussed the recently published and distributed study reporting a survey conducted by the Shared Ethics Advisory Commission intended to measure the effectiveness of the Shared Ethics Initiatives after five years of existence. It was noted that the results and the survey were reported in the Times of Northwest Indiana and the Post-Tribune. It was noted that the survey suggested that those who had participated in ethics training were more likely to report an issue of ethics in the workplace rather than those who had no training. The Town Council President expressed concern about some of the findings in which some respondents suggested little faith in the likelihood of a corrective response occurring from a report of an ethical lapse in the workplace.
6. The Town Council and the department heads discussed a suggestion from the Redevelopment Director that Census shirts be worn by the Town Council and others at the second plenary business meeting in March to promote the 2010 Census.

Most department heads departed at this time. The Public Works Director remained.

7. The Town Council and the Public Works Director discussed a letter he received from the Chicago Federal Region Office of the U.S. E.P.A. regarding storm and sanitary system operations and a request for data regarding the system.
8. The Town Council and the Public Works Director discussed a letter received from Gary Gessler, 2317 Terrace Drive, Highland, regarding what Mr. Gessler described as the "poor condition" of the Terrace Drive.
9. The Town Council and the Public Works Director discussed the responses from the recent solicitation of bids for solid waste collection services as required in IC 36-9-30 et seq. It was noted that the bid specifications provided for a traditional services bid and an alternative bid. The traditional service bid called for the services as they are presently delivered: single day, once a week curbside solid waste collection and recycling with the municipality providing to residents the 18 gallon recycling bin. The alternative services bid called for five day a week service for the Town, and recycling to be collected every two weeks rather than weekly. The terms of any contract suggested a two-year agreement with an option for two one year extensions.

It was further reported that Republic Waste Services, in responding to the alternative service bid, indicated it would provide a special large volume trash can adapted for its collection trucks and a large volume container for recycling for all customers. However, it was further noted that if the alternative service bid was accepted, the vendor would require a full four-year agreement. It was further noted that the rate increase over the current rates was much lower for the alternative services bid than the traditional services bid.

The Town Council and the Public Works Director discussed the desirability versus the cost savings of moving from the current service level to one in which residents would have different waste collection days based upon neighbor, rather than the same day throughout the town. The Town Council and the Public Works Director discussed the desirability versus the cost savings of moving from the current service level to one in which residents would move from weekly recycling collection to biweekly and the possible confusion that may ensue.

The Public Works Director indicated that he would prepare a recommendation for action by the Town Council for its meeting of March 8, 2010. It was noted that the current waste collection services agreement was due to expire in March.

There being no further business to discuss, the Study Session following the regular business meeting of the Highland Town Council of **Monday, February 22, 2010** was adjourned at 8:45 p.m.

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer